

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:	)	
	)	
DaimlerChrysler Corporation	)	NOTICE OF VIOLATION
Toledo, Ohio	)	EPA-5-99-OH-40
	)	
Proceedings Pursuant to the	)	
Section 113 of the Clean Air Act,	)	
42 U.S.C. § 7413	)	

**STATUTORY AUTHORITY**

The United States Environmental Protection Agency (U.S. EPA) is issuing this Notice of Violation pursuant to Section 113(a)(1) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(a)(1). You are hereby notified that the Administrator of the United States Environmental Protection Agency, by authority duly delegated to the undersigned, finds DaimlerChrysler Corporation, Toledo, Ohio, to be in violation of Part C of the Act and 40 C.F.R. § 52.21. Specifically, DaimlerChrysler Corporation is in violation of Section 165(a) of the Act and the Ohio State Implementation Plan at 40 C.F.R. § 52.21 for failing to obtain an effective Prevention of Significant Deterioration ("PSD") permit prior to beginning actual construction of a major emitting facility.

**STATUTORY AND REGULATORY AUTHORITY**

1. Section 110 of the Act, 42 U.S.C. § 7410, requires States to adopt, and submit to the U.S. EPA for approval, State Implementation Plans ("SIPs") providing for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards ("NAAQS") promulgated by U.S. EPA pursuant to Section 109 of the Act, 42 U.S.C. § 7409.
2. Part C of the Act, 42 U.S.C. § 7470-7491, requires the Administrator to promulgate regulations to prevent the significant deterioration of air quality in areas designated as attainment or unclassifiable in accordance with Section 107(d) of the Act, 42 U.S.C. § 7407(d). In accordance with the Act, the Administrator promulgated regulations at 40 C.F.R. § 51.166 setting forth SIP approval requirements for the prevention of significant deterioration of air quality.
3. Section 161 of the Act, 42 U.S.C. § 7471, and 40 C.F.R. § 51.166(a)(1) require the States to submit SIPs containing emission limitations and other measures necessary to prevent the significant deterioration of air

quality. Pursuant to Section 110(a) of the Act, 42 U.S.C. § 7410(a), the Administrator determined the Ohio SIP did not satisfy the measures required to ensure the prevention of significant deterioration of air quality. As a result, the Administrator disapproved the PSD portion of the Ohio SIP, 40 C.F.R. § 52.1884(a).

4. In accordance with Section 110(c) of the Act, 42 U.S.C. § 7410(c) and 40 C.F.R. § 52.21(a), the Administrator incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) [PSD Regulations] as part of the Ohio SIP, 40 C.F.R. § 52.1884(b).
5. "Major stationary source" is defined at 40 C.F.R. § 52.21(b) (1) (i) as, among other things, any chemical process plant that emits or has the potential to emit, 100 tons per year of any air pollutant subject to regulation under the act.
6. "Major modification" is defined at 40 C.F.R. § 52.21(b) (2) (i) as "any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act."
7. "Construction" is defined at 40 C.F.R. § 52.21(b) (8) as "any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions."
8. "Begin actual construction" is defined at 40 C.F.R. § 52.21(b) (11) as "initiation of physical onsite construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those onsite activities other than preparatory activities which mark the initiation of the change."
9. "Significant" is defined at 40 C.F.R. § 52.21(b) (23) (i) as "net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates" including but not limited to: "100 tons per year (TPY) CO, 40 TPY of NO<sub>x</sub>, 40 TPY of SO<sub>2</sub>, 25 TPY of Particulate Matter and 40 TPY of volatile organic compounds for Ozone."
10. 40 C.F.R. § 52.21(i) states "no stationary source or modification to which the requirements of paragraphs (j) through (r) of this section shall begin actual construction without a permit which states that the stationary source or modification would meet those requirements."

11. Section 165(a) of the Act states, *inter alia*, that no major emitting facility may be constructed or modified unless a permit has been issued in accordance with requirements of Part C of the Act.
12. The issuance and effective dates for a PSD permit are regulated under 40 C.F.R. § 124.15.
13. 40 C.F.R. § 124.15(a) states, "After the close of the public comment period under § 124.10 on a draft permit, the Regional Administrator shall issue a final permit decision..." Pursuant to this requirement, the Ohio Environmental Protection Agency ("Ohio EPA") issued a Permit to Install to Chrysler Corporation on June 26, 1998.
14. 40 C.F.R. § 124.15(b) (1) states, "A final permit decision... shall become effective thirty (30) days after the service of notice of the decision unless... a later effective date is specified in the decision..."
15. 40 C.F.R. § 124.20(d) states, "Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days shall be added to the prescribed time."
16. The Permit to Install issued to Chrysler Corporation by Ohio EPA on June 26, 1998 states under the PSD requirements section, "In accordance with 40 C.F.R. 124.15, 124.19, and 124.20, the following shall apply: (1) the effective date of this permit shall be 30 days after the service of notice to any public commentors of the final decision to issue, modify, or revoke and re-issue the permit, unless the service of notice is by mail, in which case the effective date of the permit shall be 33 days after the service of notice..."
17. 40 C.F.R. § 52.21(r) provides, *inter alia*, that any owner or operator of a source subject to the PSD regulations who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.
18. 40 C.F.R. § 52.23 provides, *inter alia*, that failure to comply with any provisions of 40 C.F.R. Part 52, or with any approved regulatory provision of a SIP or with any permit condition, or with any permit limitation or condition contained within an operating permit issued under an EPA-approved program that is incorporated into the SIP, subjects the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and

subject to enforcement action under Section 113 of the Act.

**FACTUAL BACKGROUND**

19. DaimlerChrysler Corporation is located at 1000 Jeep Parkway, Toledo, Ohio in Lucas County.
20. DaimlerChrysler Corporation operates a motor vehicle assembly plant.
21. Lucas County is an area presently classified as attainment or unclassifiable for all criteria pollutants, with the exception of SO<sub>2</sub>. 40 C.F.R. Subpart B, § 81.336.
22. On June 26, 1998, OEPA issued a PSD permit to Chrysler Corporation for the construction of the New Toledo Assembly Plant. OEPA issued a Citizen Advisory noticing issuance of the PSD permit by mail on June 30, 1998. Therefore, pursuant to the regulations and the terms of the PSD permit, the PSD permit was not effective until August 3, 1998, 33 days after OEPA mailed the Citizen Advisory was mailed to commentors.
23. On June 16, 1998, Chrysler Corporation initiated construction of storm water sewers.
24. On July 27, 1998, Chrysler Corporation initiated construction of sanitary sewers

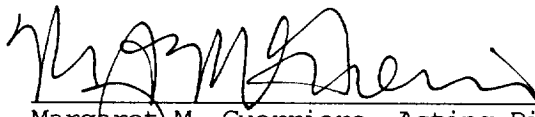
**FINDINGS OF VIOLATION**

25. By installing storm water sewers and sanitary sewers at the site of the New Toledo Assembly Plant prior to August 3, 1998, Chrysler Corporation (now DaimlerChrysler) began actual construction of the motor vehicle assembly plant prior to the effective date of its PSD permit, in violation of Section 165(a)(1) of the Act and the Ohio State Implementation Plan at 40 C.F.R. § 52.21(i)

**NOTICE OF VIOLATION**

The Administrator of the U.S. EPA, by authority duly delegated to the undersigned, notifies the State of Ohio and DaimlerChrysler Corporation that the facility described above is in violation of Section 165(a) of the Act, and the Ohio State Implementation Plan at 40 C.F.R. § 52.21, as set forth in this Notice of Violation.

8/24/99  
Date

  
Margaret M. Guerriero, Acting Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

**Re: Notice of Violation at** DaimlerChrysler Corporation, **Toledo, Ohio**

I, Loretta Shaffer, do hereby certify that a Notice of Violation Pursuant to the Clean Air Act was sent by Certified Mail, Return Receipt Requested, to:

Mr. Roy Attard, Supervisor,  
Advance Facilities Building Construction,  
Assembly Manufacturing Engineering  
DaimlerChrysler Corporation  
1000 Jeep Parkway  
Toledo, Ohio 43657

I, Loretta Shaffer, certify that a copy of the Notice of Violation Pursuant to the Clean Air Act was sent by first class mail to:

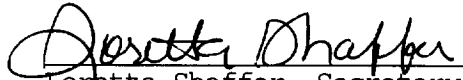
Patrick M. Raher, Partner  
Hogan & Hartson, L.L.P.  
Columbia Square  
555 Thirteenth Street, NW  
Washington D.C. 20004-1109

William J. Garber, Acting Manager  
City of Toledo  
Division of Environmental Services  
348 South Erie  
Toledo, Ohio 43602

and

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

on the 26<sup>th</sup> day of August, 1999.

  
Loretta Shaffer, Secretary  
AECAB (MN/OH)

P140 895 437  
Certified Mail Article Number